

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

URBCAM/WSU I, LLC,

Plaintiff,

vs.

Case No. 12-CV-15686
HON. GEORGE CARAM STEEH

LEXINGTON INSURANCE CO.,

Defendant.

**ORDER GRANTING IN PART AND DENYING IN PART
DEFENDANT'S MOTION TO EXTEND SCHEDULING
ORDER (Doc. 49) AND DENYING DEFENDANT'S MOTION TO DENY
PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT (Doc. 59)**

This breach of contract action arises out of water damage to an apartment building which was insured by defendant Lexington Insurance Company ("Lexington"). Now before the court are (1) Lexington's motion to amend the scheduling order to extend the discovery cut-off date and the deadline for filing dispositive motions, and (2) Lexington's motion to deny plaintiff's motion for partial summary judgment so that it may conduct additional discovery on its putative fraud counterclaim and affirmative defense which it sought to add pursuant to its motion to amend. Pursuant to this court's September 6, 2013 scheduling order, the discovery cut-off date was November 13, 2013, and the dispositive motion cut-off date was December 16, 2013, which is the same date that Lexington filed its motion to amend the scheduling order. Lexington argues that additional time is needed to conduct discovery on its affirmative defense and counterclaim alleging fraud. Lexington's motion to amend to add a fraud

counterclaim and affirmative defense was denied by order entered this date affirming, in part, and reversing in part, the magistrate judge's order. Thus, Lexington's motion to extend discovery on this basis shall be denied as moot. For the same reason, Lexington's motion to deny plaintiff's motion for partial summary judgment so that it can conduct discovery on its putative fraud claim and defense, shall be denied.

Lexington also argues that additional time to conduct discovery is needed because plaintiff allegedly failed to fully respond to its first set of requests for production of documents and first supplemental set of requests for production of documents. Lexington filed a motion to compel production of requested documents which Magistrate Judge Randon denied on the record and by written order, on December 16, 2013. (Doc. 46). Pursuant to an agreement by the parties, however, Magistrate Judge Randon ordered that the parties schedule the deposition of plaintiff's Rule 30(b)(6) representative, limited to topics related to its production requests, on or before December 30, 2013.

Based on the limited additional discovery which Magistrate Judge Randon allowed in his December 16, 2013 order, Lexington's motion to extend the dispositive motion cut-off date (Doc. 49) hereby is EXTENDED until March 3, 2014. As Magistrate Judge Randon previously denied Lexington's motion to compel, Lexington's motion to extend discovery to allow for plaintiff's production of requested documents is DENIED as moot. Lexington's motion for additional discovery related to the fraud counterclaim and affirmative defense is DENIED as moot. IT IS FURTHER ORDERED that Lexington's motion to deny plaintiff's motion for partial summary judgment so that it can conduct additional discovery (Doc. 59) is DENIED and Lexington is ORDERED to

respond to plaintiff's motion for partial summary judgment on or before March 3, 2014.

A hearing on plaintiff's motion for partial summary judgment shall be heard on March 20, 2014 at 10:30 am.

IT IS SO ORDERED.

Dated: February 10, 2014

s/George Caram Steeh
GEORGE CARAM STEEH
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on February 10, 2014, by electronic and/or ordinary mail.

s/Marcia Beauchemin
Deputy Clerk